

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-376-2017 (O&M)

Date of decision: September 17, 2018

Gian Singh and others

...Appellants

Versus

Punjab State and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Mohit Jaggi, Advocate for the appellants.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiffs/appellants filed a suit under Order 7 Rule 1 CPC, for declaration to the effect that plaintiffs are allottee of residential plots measuring 86.613 sq. yard (100 sq. yard each) on the basis of a *Sanad* issued by the Punjab Government through its Governor to each of the allottees. The land is situated within the *Abadi Deh* of village Sohana, District Ropar. It was alleged by the plaintiffs that land comprised in Khewat No.718/1, Khatauni No.830, as detailed in the plaint, was acquired by the defendants for capital project for rehabilitation of oustees of Chandigarh, vide notifications dated 2.4.1953 and 15.4.1953

respectively. However, no oustees were rehabilitated in the said land and since then same was lying vacant. Out of the said land 54 Biswas were allotted to the landless persons of village Sohana in the year 1974 and symbolic possession in the form of plots were given to the plaintiffs. Plaintiffs or their predecessors are allottees of the said plots. Despite requests made by the plaintiffs, demarcation of their respective plots were not made by the revenue officials. Defendants contested the suit. However, they did not file any written statement and ultimately, their defence was struck off by the trial court on 17.4.2012. After hearing both the parties and perusing oral as well as documentary evidence, the trial court dismissed the suit on the ground that mere suit for declaration without seeking consequential relief of possession was not maintainable. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Plaintiffs filed a mere suit for declaration, whereas they were not in physical possession of the plots alleged to have been allotted to them, therefore, they cannot take advantage of their own wrong. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

CM Nos.824-C & 825-C of 2016:

Since the main appeal has been dismissed on merits, these applications for condonation of delay do not survive and the same are also dismissed.

(RAJAN GUPTA)
JUDGE

September 17, 2018
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No